

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-181 substituted “section 1254 of title 28” for “sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347)”.

1958—Subsec. (a). Pub. L. 85-791, in second sentence, substituted “transmitted by the clerk of the court to any member of the Commission, or” for “served upon any member of the Commission, or upon”, substituted “file in the court” for “certify and file in the court a transcript of”, and inserted “as provided in section 2112 of title 28”, and in third sentence substituted “petition” for “transcript” and “jurisdiction, which upon the filing of the record shall be exclusive” for “exclusive jurisdiction”.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, as amended by act May 24, 1949, substituted “court of appeals” for “circuit court of appeals”.

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

FEDERAL RULES OF APPELLATE PROCEDURE

Review and enforcement of orders of administrative agencies, boards, commissions and officers, see rule 15 et seq., Title 28, Appendix, Judiciary and Judicial Procedure.

CROSS REFERENCES

Review of orders under—

Investment Advisers Act of 1940, see section 80b-13 of this title.

Investment Company Act of 1940, see section 80a-42 of this title.

Securities Act of 1933, see section 77i of this title.

Securities Exchange Act of 1934, see section 78y of this title.

Trust Indenture Act of 1939, see section 77vvv of this title.

Simplification of holding company systems, review of commission's orders, see section 79k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 79k of this title.

§ 79y. Jurisdiction of offenses and suits

The District Courts of the United States and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have jurisdiction of violations of this chapter or the rules, regulations, or orders thereunder, and, concurrently with State and Territorial courts, of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this chapter or the rules, regulations, or orders thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by, or to enjoin any violation of, this chapter or rules, regulations, or orders thereunder, may be brought in any such district or in the district wherein the defendant is an inhabitant or transacts business, and process in such cases may be served in any district of which the defendant is an inhabitant or transacts business or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254, 1291, 1292,

and 1294 of title 28. No costs shall be assessed for or against the Commission in any proceeding under this chapter brought by or against the Commission in any court.

(Aug. 26, 1935, ch. 687, title I, §25, 49 Stat. 835; June 25, 1936, ch. 804, 49 Stat. 1921; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Dec. 4, 1987, Pub. L. 100-181, title IV, §404, 101 Stat. 1260.)

CODIFICATION

As originally enacted section contained references to the Supreme Court of the District of Columbia. Act June 25, 1936, substituted “the district court of the United States for the District of Columbia” for “the Supreme Court of the District of Columbia”. Pub. L. 100-181 struck out reference to the district court of the United States for the District of Columbia. Previously, act June 25, 1948, as amended by act May 24, 1949, had substituted “United States District Court for the District of Columbia” for “district court of the United States for the District of Columbia”, but such words had been editorially eliminated as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure, which provides that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district”, and section 88 of title 28 which provides that “the District of Columbia constitutes one judicial district”.

AMENDMENTS

1987—Pub. L. 100-181 struck out “, the district court of the United States for the District of Columbia,” after “District Courts of the United States” and substituted “sections 1254, 1291, 1292, and 1294 of title 28” for “sections 128 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347), and section 7, as amended, of the Act entitled ‘An Act to establish a court of appeals for the District of Columbia’, approved February 9, 1893 (D.C. Code, title 18, sec. 26)”. See Codification note above.

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

FEDERAL RULES OF APPELLATE PROCEDURE

Review and enforcement of orders of administrative agencies, boards, commissions, and officers, see rule 15 et seq., Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Costs, see rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action, see rule 2.

Process, see rule 4.

FEDERAL RULES OF CRIMINAL PROCEDURE

Special venue provisions of section as unaffected by rule 18, see Notes of Advisory Committee on Rules set out under rule 18, Title 18, Appendix, Crimes and Criminal Procedure.

Venue, see rules 18 to 22.

CROSS REFERENCES

Jurisdiction of offenses and suits under—

Investment Advisers Act of 1940, see section 80b-14 of this title.

Investment Company Act of 1940, see section 80a-43 of this title.

Securities Act of 1933, see section 77v of this title.

Securities Exchange Act of 1934, see section 78aa of this title.
 Trust Indenture Act of 1939, see section 77vvv of this title.
 Venue generally, see section 1391 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 79z. Validity of contracts

(a) Waiver provisions

Any condition, stipulation, or provision binding any person to waive compliance with any provision of this chapter or with any rule, regulation, or order thereunder shall be void.

(b) Contract provisions in violation of chapter; actual knowledge of violations

Every contract made in violation of any provision of this chapter or of any rule, regulation, or order thereunder, and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this chapter, or any rule, regulation, or order thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, regulation, or order.

(c) Validity of loans, extensions of credit and creation of liens; actual knowledge of violations

Nothing in this chapter shall be construed (1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this chapter, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this chapter or any rule or regulation thereunder, or (2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this chapter or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien.

(Aug. 26, 1935, ch. 687, title I, § 26, 49 Stat. 835.)

§ 79z-1. Liability of controlling person; preventing compliance with law

(a) It shall be unlawful for any person, directly or indirectly, to cause to be done any act or thing through or by means of any other person which it would be unlawful for such person to do under the provisions of this chapter or any rule, regulation, or order thereunder.

(b) It shall be unlawful for any person without just cause to hinder, delay, or obstruct the mak-

ing, filing, or keeping of any information, document, report, record, or account required to be made, filed, or kept under any provision of this chapter or any rule, regulation, or order thereunder.

(Aug. 26, 1935, ch. 687, title I, § 27, 49 Stat. 836.)

CROSS REFERENCES

Liability of controlling persons under—
 Investment Company Act of 1940, see section 80a-47 of this title.
 Securities Act of 1933, see section 77o of this title.
 Securities Exchange Act of 1934, see section 78t of this title.

§ 79z-2. Representation of guaranty or recommendation by United States

It shall be unlawful for any person in issuing, selling, or offering for sale any security of a registered holding company or subsidiary company thereof, to represent or imply in any manner whatsoever that such security has been guaranteed, sponsored, or recommended for investment by the United States or any agency or officer thereof.

(Aug. 26, 1935, ch. 687, title I, § 28, 49 Stat. 836.)

§ 79z-3. Penalties

Any person who willfully violates any provision of this chapter or any rule, regulation, or order thereunder (other than an order of the Commission under subsections (b), (d), (e), or (f) of section 79k of this title), or any person who willfully makes any statement or entry in any application, report, document, account, or record filed or kept or required to be filed or kept under the provisions of this chapter or any rule, regulation, or order thereunder, knowing such statement or entry to be false or misleading in any material respect, or any person who willfully destroys (except after such time as may be prescribed under any rules or regulations under this chapter), mutilates, alters, or by any means or device falsifies any account, correspondence, memorandum, book, paper, or other record kept or required to be kept under the provisions of this chapter or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$10,000 or imprisoned not more than five years, or both, except that in the case of a violation of a provision of subsection (a) or (b) of section 79d of this title by a holding company which is not an individual, the fine imposed upon such holding company shall be a fine not exceeding \$200,000; but no person shall be convicted under this section for the violation of any rule, regulation, or order if he proves that he had no knowledge of such rule, regulation, or order.

(Aug. 26, 1935, ch. 687, title I, § 29, 49 Stat. 836; June 4, 1975, Pub. L. 94-29, § 27(c), 89 Stat. 163.)

AMENDMENTS

1975—Pub. L. 94-29 substituted “or imprisoned not more than five years” for “or imprisoned not more than two years”.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-29 effective June 4, 1975, see section 31(a) of Pub. L. 94-29, set out as a note under section 78b of this title.